



Corrections and Community Supervision

Earned Eligibility Program Summary Semiannual Report

April to September 2021

EARNED ELIGIBILITY PROGRAM SUMMARY

Semiannual Report, April – September 2021

INTRODUCTION

EEP evaluates an eligible incarcerated individual's program progress and overall record of behavior to determine if an Earned Eligibility Certificate (EEC) should be issued for their Board of Parole interview. The issuance of an EEC reflects an evaluation of attendance, participation, and progress as well as institutional behavior related to programming, and increases the likelihood of being granted parole. Each report provides information regarding the operation of the Earned Eligibility Program for the preceding six-month period.

The information in this report is drawn from Board of Parole interview dispositions and Earned Eligibility reviews. Data on Earned Eligibility statuses and Board of Parole dispositions are maintained by the Department of Corrections and Community Supervision (DOCCS). If a case is missing information on either Earned Eligibility status or Board of Parole disposition, it is excluded from the analysis. For individuals with more than one interview during the relevant time period (due to postponements at their initial interview), information is provided on each interview and corresponding Earned Eligibility status. Consequently, Board of Parole appearances¹, not individuals, are the units of analysis.

Overview of Earned Eligibility Program

The goal of EEP is to increase the rate of releases for individuals who have demonstrated an overall pattern of progress in prescribed programs. The program administrators evaluate individuals' preparedness for release based on their compliance with sets of minimum standards for behavior and for progress toward satisfying treatment needs. The Earned Eligibility Program is governed by Directive 4793, which provides program explanation and eligibility criteria.²

Prior to an incarcerated individual's initial Board of Parole interview, the Earned Eligibility Program provides for a review of treatment and disciplinary records to

¹ In May 2003, the Legislature authorized incarcerated individuals to be Presumptively Approved for release by the then Department of Correctional Services to the Division of Parole without a Board of Parole interview. Presumptively approved individuals still appear before the Board of Parole to set the conditions of their parole supervision. This report treats the presumptively approved individuals as Board of Parole appearances who received parole approvals.

² www.DOCCS.ny.gov/Directives/4793.pdf

determine whether the case is “certifiable” and whether an Earned Eligibility Certificate should be issued or denied. The criteria for these determinations are:

- Issued: Incarcerated individuals who have been programming successfully for 90 days or more at the time of their Board of Parole appearance;
- Denied: Incarcerated individuals who have refused recommended programming, have disciplinary records that negatively impact program participation or have been removed from recommended programs for poor attendance and/or poor participation;
- Non-certifiable: Incarcerated individuals with less than 90 days of programming at the time of their Board of Parole appearance due to insufficient time under custody, being out-to-court, medical restrictions, psychiatric care, or protective custody. Individuals who are unassigned for any of these reasons and whose programming was significantly impacted prior to their Board of Parole appearance, may also be designated non-certifiable.

Evaluation results are provided to the Board of Parole to be used in deciding whether to approve release of the individual or to deny parole. For eligible individuals, an EEP review is required for each subsequent Board of Parole interview. This program of standards and review is available to individuals serving indeterminate sentences with minimum sentences of eight years or less. Individuals serving determinate sentences, who are eligible for Board of Parole authorized early release consideration such as Shock Incarceration, Early Conditional Parole for Deportation Only and Medical Parole, are also EEP eligible.

Earned Eligibility Program Expansion

When the Earned Eligibility Program began in 1987, eligibility for the program was limited to incarcerated individuals with minimum sentences of six years or less. The Legislature expanded the program to include individuals with minimum sentences of up to eight years in May 2003. Initial interviews for cases having minimum sentences of more than six (6) years but no more than eight (8) years began in June 2003. All the tables in this report reflect the interviews that occurred between April and September 2021 for individuals with minimum sentences of eight years or less.

Types of Earned Eligibility Review Interviews

Table 1 shows that between April and September 2021, there were 2,261 interviews for Earned Eligibility cases. Merit interviews and Initial interviews are similar in that both usually represent the first appearance before the Board of Parole. However, if an individual is denied at the Merit interview, then that person will have a subsequent “Initial” interview which would actually be a second appearance. The 1,577 Initial interviews and the 223 Merit interviews will be the focus of this report. These 1,800 primary appearance interviews accounted for 80% of the cases reviewed, while reappearances accounted for the remaining 20%.

**Table 1: Parole Interview Type for EEP Cases by Month of Interview
April through September 2021**

Interview Month	Interview Type				Total
	Initial*	Merit	Reappearance	Parole Violator Reappearance	
Apr 21	151 54.5%	53 19.1%	72 26.0%	1 0.4%	277 12.3%
May 21	241 70.9%	42 12.4%	56 16.5%	1 0.3%	340 15.0%
Jun 21	325 71.3%	39 8.6%	89 19.5%	3 0.7%	456 20.2%
Jul 21	307 73.3%	32 7.6%	80 19.1%	0 0.0%	419 18.5%
Aug 21	284 74.2%	29 7.6%	70 18.3%	0 0.0%	383 16.9%
Sep 21	269 69.7%	28 7.3%	88 22.8%	1 0.3%	386 17.1%
Total	1,577 69.7%	223 9.9%	455 20.1%	6 0.3%	2,261 100.0%

* Initials include 58 interviews for Shock cases

Earned Eligibility Status and Board of Parole Interview Results

Table 2 shows that the Board of Parole held 1,800 Initial and Merit interviews for EEP cases between April to September 2021.

- Of these cases, 40% (720) were issued an EEP Certificate, 26% (466) were denied and 34% (614) were non-certifiable.
- DOCCS issued 720 EEP certificates. The Board of Parole approved 54% or 387 of these cases.
- Non-Certifiable cases (614) were approved for release at a rate of 29%, while EEP cases that were denied a certificate (466) were approved for release at a rate of 11%.
- Overall, the Board of Parole approved 34% of the EEP eligible cases for release.

**Table 2: EEP Review Results and Board of Parole Approvals at Initial Interviews
April through September 2021**

EEP CERTIFICATE	Number of Interviews	Percent of Interviews	Approved for Parole	Percent Approved for Parole
Issued	720	40.0%	387	53.8%
Denied	466	25.9%	53	11.4%
Non-certifiable	614	34.1%	176	28.7%
Total	1,800	100.0%	616	34.2%

Earned Eligibility Certificate Denials and Board of Parole Interview Results

Table 3 shows the general reasons that a case may be denied an EEP certificate.

- The majority (52%) of the 466 EEP certificate denials were due to poor behavior that interfered with program progress. This group had a 7% approval rate, the lowest rate among the denial reasons.
- Those who were denied due to poor participation and/or progress accounted for 38% of the cases and were approved at a rate of 16%.
- Individuals denied an EEP certificate due to poor program attendance accounted for 6% of the group and were approved for release at a rate of 18%. This represents the highest approval rate among the four general denial reasons.
- Those who refused to participate in their recommended programs accounted for 4% of the denials and had a 17% rate of approval.

**Table 3: EEP Certificate Denial Reasons and Board of Parole Approvals at Initial Interviews
April through September 2021**

REASONS FOR EEP DENIAL	Number of EEP Denials	Percent of EEP Denials	Approved for Parole	Percent Approved Within Denial Reason
Poor Participation and / or Progress	178	38.2%	29	16.3%
Poor Program Attendance	28	6.0%	5	17.9%
Refusal to Participate	18	3.9%	3	16.7%
Behavior Interfered with Program	242	51.9%	16	6.6%
Total	466	100.0%	53	11.4%

Non-Certifiable Earned Eligibility Cases and Board of Parole Interview Results

Table 4 shows the general reasons that an EEP case would be determined to be non-certifiable and the results of the initial Board of Parole interview. In contrast with EEP denials, non-certification recognizes that deficiencies in the individual's program participation may be due to circumstances beyond the individual's control.

- Of the 614 cases determined to be non-certifiable, 327 individuals (53%) were in reception. These cases had a 23% approval rate.
- 275 individuals (45%) were non-certifiable due to insufficient time in prescribed programs. The approval rate of those individuals was 37%.

**Table 4: EEP Non-Certifiable Reasons and Board of Parole Approvals at Initial Interviews
April through September 2021**

NON-CERTIFIABLE EEP STATUS REASONS	Number	Percent Non-certifiable	Approved for Parole	Percent Approved within Non-Certifiable reason
In Reception	327	53.3%	74	22.6%
Insufficient Time	275	44.8%	102	37.1%
Hospital	1	0.2%	0	0.0%
Out to Court	11	1.8%	0	0.0%
Total	614	100.0%	176	28.7%

Earned Eligibility Status within Offense Type & Board of Parole Interview Results

Table 5 shows the distribution of the 1,800 EEP cases within offense types. Within each offense type, the result of the initial EEP review is cross referenced with the decision of the Board of Parole.

- Of the 1,800 initial EEP cases, 968 (54%) were Property/Other Offenses and 478 (27%) were Other Coercive Offenses. Violent Offenses (159) made up of 9% of EEP cases, Drug Offense cases (128) made up 7%, and Youthful Offender cases (67) made up 4%.
- Among cases issued an EEP certificate, Youthful Offender cases were approved for release at the highest rate (75%), followed by Property/Other Offense cases (63%), Drug Offense cases (55%), Other Coercive cases (49%), and Violent Offenses (24%). No Juvenile Offender cases were issued EEP certificates.

**Table 5: EEP Status within Crime Category by Initial Board of Parole Interview Result
April through September 2021**

OFFENSE TYPE EEP CERTIFICATE		RELEASE DECISION				Total	
		APPROVED FOR PAROLE		PAROLE DENIED			
Violent	Issued	18	23.7%	58	76.3%	76	47.8%
	Denied	6	7.5%	74	92.5%	80	50.3%
	Non-Cert	0	0.0%	3	100.0%	3	1.9%
	Total	24	15.1%	135	84.9%	159	100.0%
Other Coercive	Issued	101	48.6%	107	51.4%	208	43.5%
	Denied	9	8.7%	94	91.3%	103	21.5%
	Non-Cert	32	19.2%	135	80.8%	167	34.9%
	Total	142	29.7%	336	70.3%	478	100.0%
Drug	Issued	51	54.8%	42	45.2%	93	72.7%
	Denied	4	13.8%	25	86.2%	29	22.7%
	Non-Cert	3	50.0%	3	50.0%	6	4.7%
	Total	58	45.3%	70	54.7%	128	100.0%
Property/ Other	Issued	214	63.1%	125	36.9%	339	35.0%
	Denied	33	14.0%	202	86.0%	235	24.3%
	Non-Cert	131	33.2%	263	66.8%	394	40.7%
	Total	378	39.0%	590	61.0%	968	100.0%
Youthful Offender	Issued	3	75.0%	1	25.0%	4	6.0%
	Denied	1	5.3%	18	94.7%	19	28.4%
	Non-Cert	10	22.7%	34	77.3%	44	65.7%
	Total	14	20.9%	53	79.1%	67	100.0%
Juvenile Offender	Issued	0	N/A	0	N/A	0	N/A
	Denied	0	N/A	0	N/A	0	N/A
	Non-Cert	0	N/A	0	N/A	0	N/A
	Total	0	N/A	0	N/A	0	N/A
Total	Issued	387	53.8%	333	46.3%	720	40.0%
	Denied	53	11.4%	413	88.6%	466	25.9%
	Non-Cert	176	28.7%	438	71.3%	614	34.1%
	Total	616	34.2%	1,184	65.8%	1,800	100.0%

Conclusion

The 720 individuals who earned an EEP certificate were approved for release at the highest rate (54%) when compared to the 466 that were denied an EEP certificate (11%) and the 614 individuals that were non-certifiable (29%).

Between April and September 2021, the “Property/Other” (968) and “Other Coercive” (478) Offenses constituted the two largest categories considered for an EEP certificate, which accounted for the majority (80%) of the initial interviews.

As a result of determinate sentencing and Drug Law reform, the 128 Drug Offense cases represented only 7% of the initial interviews in this reporting period. This is in contrast to the same time period ending in period during 2006, when the 3,119 Drug Offense cases represented 45% of the interviews.

Of the 339 Property/Other Offenses issued an EEP certificate, 63% were approved for release, which was the highest approval rate among crime categories for those issued EEP certificates, besides the 3 of 4 approved Youthful Offense cases. Of the 76 Violent Offense cases issued an EEP certificate, only 24% (18 cases) were approved for release by the Board of Parole, which was the lowest approval rate among crime categories for those issued EEP certificates.

Overall, in the period between April and September 2021, there were 2,261 EEP interviews. Eighty percent (1,800 cases) of these interviews were initial appearances at the Board of Parole.

The overall parole approval rate for the 1,800 incarcerated individuals at initial appearances was 34%, down from 45% in the previous six-month period (October 2020 to March 2021), as well as from 49% approved for parole during the same time in 2020. The rate at which EEP interviews resulted in issued EEP certificates decreased to just 40% from 56% of initial interviews in the previous six-month period. It is notable that the total number of EEP interviews (2,261) decreased by 22% from 2,893 interviews conducted the same time last year.

Prepared by:

Program Planning, Research and Evaluation
December 2021